18-P

Previous references.

File No. 213-10

1911

Serial Nos. 1-2

(S-R)

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-2

Part B. for November 1911.

SUBJECT.

Impounding a document a 2nd time

1. From the Deputy Com^r, Bangalore Dt
No. S. 5248 dt. 26. 6. 11.
Solicits orders as to the propriety of levying additional duty & penalty on a document once impounded in 1886 by a District Judge and again impounded in 1908 by the additional munsiff, Bangalore, on the ground of insufficient duty and penalty levied on the former occasion.

2 ~~G. R. S. 58~~ To the D.C. Bangalore; Dy. Com^rs of other districts; Com^r of Stamps No. R. 1937-45 dt. 7. 11. 11.
Observes that for reasons stated, the action of the munsiff was contrary to law & that no action is therefore called for on the report made by him to the D^t Com^r

G.R.S. 11] 1911

GENERAL AND REVENUE SECRETARIAT.

(Sep Rev.)

NOTES.

213-10 -

File No ~~47-10~~

FILE HEADING.

The Stamp Regulations in the Impounding a document a second time

From

The Deputy Commissioner Bangalore District

No. S.548 Dated 26.6.11 Received 27.6.11

Diary No. 5708 | Enclos. | Spare Copies | Serial No. 14

BRIEF ABSTRACT OF LETTER.

Solicits orders as to the propriety of levying additional duty and penalty on a document once impounded in 1886 by a District Judge and again impounded in 1908 by the Additional Munsiff, Bangalore on the ground of insufficient duty & penalty levied on the former occasion

NOTES AND ORDERS.

(1) The facts of the case and the point for orders are clearly set forth in the Dy Comrs letter.

(2) The District Judge seems to have construed the document as an agreement and levied a duty of annas eight and a penalty of Rs 5/- The Additional

NOTES—First sheet

GPB—15,000—24-4-09.

G. R. S. 12]
General and Revenue Secretariat.

S. R File No. 213 609 of 1910

Serial No.

munsiff has held that it is a partition deed, the duty on which is calculated by the Deputy Comr vide Rs 30/-

Submitted for orders.

A&R (1) 13/7

No-36-11 (3) Forwarded to the Govt Advocate for favour of opinion.

9-5-7-11 M-36 12/7

Sd/- B.O.

Sd/- Shivaganga

13/7/11 For Secy to Govt

(4)

H.O. 32/21-7-11 In this case the 1st Judge considered the document to be an agreement & admitted it in Evidence on payment of a duty of Eight annas with a penalty amounting to Rs 5/- Under Sub Sec (1) Sec 42 of the Stamp Regulation he certified by Endorsement on the document that the proper duty & penalty had been levied in respect thereof, and under Sub Sec (2) of the Section Every instrument so Endorsed is eligible

11/7/11

NOTE.—Contn sheet.

GPB—50,000—12-8-10

Serial No.

to be acted upon as having been duly stamped. Under sec 38 of the Regulation it was incumbent on the Dt. Judge to send to the Dt. Comr. an authenticated Copy of the instrument, together with a Certificate in writing stating ~~that~~ the amount of duty & penalty levied, & the amount Collected. Although the Dt. Comr's record affords no information on the point it may fairly be presumed that the procedure prescribed by law was duly followed by the Dt. Judge.

(5) If the instrument was chargeable with a higher duty & penalty, action should have been taken at the time under Sec 61 of the Regulation.

(6) It appears to me that when once a Competent Court has made an order as to the proper duty leviable on a document & actually Collected the same, and the order passed has not been revised by a higher Court, in due Course of law, the document in question must be regarded as duly stamped, even though a revenue authority or a civil Court subsequently

GPB—50,000—12-8-10

G. R. S. 12]
General and Revenue Secretariat.

SO File No. 43 of 1910

Serial No.

dealing with the same matter might regard that the previous decision was erroneous.

Sd Doraiswamy Jr
21.7.1911. Govt. advocate

Submitted
Addl (1st) 24.7. [illegible]

(7) Put up draft pointing out the illegality in the procedure adopted by the Municipality and saying that the Deputy Commr. should not, on the report now made, call for any additional duty or penalty. He should have taken action under Sec 61 if such action was deemed necessary. [Make reference to Sec 36 also.]

29/7/11

(8) Submitted with a draft accordingly.

(9) It seems to be a point for consideration if the Chief Controlling Revenue Authority viz the Govt. cannot take action under Section 57(1) of the Stamp Regulation and levy the proper duty and penalty.

NOTE— Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]

General and Revenue Secretariat.

S.O. File No. 43 of 1910.

Serial No.

Please see the marked portions in Mr Chandrasekhara Iyer's note and the Chief Courts decision in the printed A Collection (S.O. 107-04) put up. The instrument being in the nature of a partition deed, there is considerable room to Court Courts having been construed as merely 'an agreement'

Submitted for orders.

Q & R

ASR (12) 4/8

(10) (1) The draft portrays & explains the facts of the case. The Munsiff seems to have overlooked the provisions of sec 42 (2) of the Regn and seems to have also interpreted Sec 36 wrongly. No action seems to be necessary at this distance of time. In fact it is doubtful whether any action under Sec 61 can at all be taken now against the ~~(finish)~~ order of the Sub Judge.

The document should have been construed with reference to the Stamp Act in force at the time but this makes no difference as the operative sections are the same. The draft has been prepared with reference to the old Act

SA

(11) (2) If it is considered that the matter may be referred to the Chief under Sec 57 (1) then a statement of the case based on the draft will, if approved be drawn up. But if

NOTE—Contn. sheet.

GPB—5,000—26-6-11

G. R. S. 12]

General and Revenue Secretariat. | S.O. File No. 43 of 1910.

Serial No.

We are to confine ourselves to indicating issuing orders to the Deputy Commr, & to refer to the Ch. Ct. Seems to be necessary.

[Please make a fair Copy of the draft and fill in the refs to the Old Stamp act. The document has to be combined with refce that]

Fair copy submitted accordingly. Asst 12/8/11

S.A.
12/8/11.

2nd C. 15/8/11

12

Draft appd

(Issue after submn to Dewan) - 23/8/11

Dewan

13214
25.8.11
Stamp Act

Dewan 24/8/11

S.A. 25/8/11

Draft approved by Dewan 30.10.11

Issue

30/10/11

S.A. 31/10/11

(Return records early)

NOTE—Contn. sheet

S.A. 31/10/11 This has been done

GPB—5,000—26-6-11

G. R. S. 12.]
General and Revenue Secretariat.

S. R. File No. 43 of 1910

Serial No.	
2	To the D.C. Bangalore " Dy com^r of Ctm 55 " com^r of Stamps no. Fl 1937-45 dy 7-11-11 Observes that for reasons explained, the achan of the Munsiff in impounding the document a second time was contrary to law & that no achan is therefore called for as the reference made by him to the Dy com^r

GPB—50,000—12-8-10

(1) T/2716 SR 2310 8 nos.

03108

190 SR ~~47 10~~ ~~1 no 4~~

From The Deputy Commissioner Bangalore D1

To The Secy to Govt. Genl & Rev Depts.

Dated 26th

Despatched 26th June 1911

Received

~~SR 10 10~~ 8 nos

General No.

S No. 6248

Enclosure No. 1 + file

Selects orders to levy duty & penalty on a document executed & impounded in 1886 and also impounded now by addl Dist Judge of Bangalore

Deputy Commissioner's Office.
Bangalore District.
Dated Bangalore 26th June 1911.

From
B. J. Kumaraswami Naik Esqre B.A.
Deputy Commissioner.
Bangalore District.

To
C. S. Balasundaram Iyer Esqre B.A.
Offg: Secretary to the Govt: of Mysore.
General & Revenue Departments.
Bangalore.

Sir,

In forwarding herewith the document received from the Additional Munsiff, Bangalore, with his Jadi No: 570 dated the 17th June 1908, I have the honor to state that the said document, which is on plain paper, was executed on the 1st May 1884, and produced on the 6th April 1886, as per Exhibit in O. S. No: 44 of 1885, on the file of the District

District Judge, who admitted the same in evidence, under section 35 of the Stamp Regulation; after levying a duty of annas eight and a penalty of Rs: 5/. The same document having been again exhibited in R. S. No: 143 of 1906/07, on the file of the Additional Munsiff Bangalore, the Munsiff impounded the document, as in his opinion, the duty levied thereon on the 6th April 1886, by the District Judge was deficient; and has accordingly sent it to this Office for adjudication.

2 As the document is of the nature of a partition deed, the value of the property divided was ascertained to be Rs: 9900/, and the separated share Rs: 5825/-, the division effected being, as noted in the margin.

1st Share	Rs: 4025/-
2nd Share	" 3850/-
3rd Share	" 2025/-
	Rs: 9900

The document is an agreement to divide property in severalty, requiring a duty of Rs: 30/-, equal to that on a partition

partition deed, under Article 45, Schedule I of the Stamp Regulation. But the District Judge levied a duty of annas eight, with a penalty of Rupees five, and certified the same on the document, under section 35 of the Stamp Regulation.- There is no record to show, whether the District Judge sent in 1886, a copy of the instrument to the Deputy Commissioner; as required by section 38(1) of the Stamp Regulation, and what action was taken thereon then.

3. Under the above circumstances, I solicit instructions, whether the deficient Stamp duty, may again be ordered to be levied, and whether a penalty may be imposed a second time, under section 40 of the Stamp Regulation, in the face of the certificate by the District Judge.

The

4. The Vernacular file of records ending with the Additional Munsiff's Yadi No 37 dated the 5th August 1910, is enclosed for reference and kind return

I have the honor to be

Sir,

Your most Obedient Servant,

Deputy Commissioner.
Bangalore District.

4734

5

34/10(B.55)

6

G.R.S. 28.]

File No. 213-10

Serial No 2

Diary No. of letter replied to 5708

Proceedings of the Government of His Highness the Maharaja of Mysore

GENERAL AND REVENUE SECRETARIAT

(S.R.)

READ--

Letter no S 548-2 dt 6-11-

the 19 from the Deputy Com[r] Bangalore Dt:

Date of issue 7th Nov/11 soliciting instructions in the matter

of levying additional duty and

Signed by W. Thompson penalty on a document impounded

ORDER THEREON.— No in 1886 by the District Judge, Bangalore Dist[t]

again in 1908 by the Additional

Munsif Bangalore in the matter

of the insufficiency of the duty

and penalty levied on the form

on occasion

over Order

SUBJECT.

GPB

duly stamped and it cannot in any subsequent proceedings in any court be challenged as inadmissible in evidence. In this view the action of the Munsiff in impounding the document a second time was contrary to law and Government consider that no action is therefore called for on the reference made by him to the Dy Comr

23/8/11
Placed

for Offg Secretary

To the Dy Comr Bangalore
returning the enclosure.
The Govt Orders of the Revenue Dept
The Comr of Stamps

30 Aug

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(Continuation Sheet (Draft form.)

inadequacy of the duty and penalty first levied, but feels a doubt as to the legality of levying duty and penalty a second time and solicits ~~in~~ instructions in the matter.

Cor consider that this is not a case in which the Deputy Com'r should take action now on the reference made by the Munsiff. The document in question was executed in 1884 and duty and penalty were levied on it in 1886 under Sec 34 of the Stamp Act as then in force. If the duty and penalty levied was less than the amount properly leviable, the Deputy Com'r might, if he thought fit have moved the proper Court under Sec 50 of the Act, for a revision of the proceedings of the District Judge. As no such action was taken, the document under Sec 39 of the Act should be regarded a

GPB—10,000—22-2-1

Order thereon no 4 of 1887 — 45 of 87 Nov/11

The document referred to which is written on blank paper was executed on the 18th day 1881 and admitted in the 6th April 1886 as an exhibit in O.S no 44 of 1885 on the file of the District Judge who treated it as an agreement and admitted it in evidence under Section 34 of the Indian Stamp Act as then in force in Burma after levying a duty of annas eight and a penalty of Rs 5. The same document having been again exhibited in O.S no 143 of 1906-1907 on the file of the Additional Munsif the latter Officer impounded it again as in his opinion the document was avoided by partition and the duty levied thereon and the former occasion by the District Judge was deficient one Rupee Consequently the document was forwarded to the Munsif after with that Officer in regard to the

T I of 879

G.R.S. 28.] 34(08-55

6

File No. 23-10

Serial No. 2

Diary No. of letter replied to 5708

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.
(S.R.)

READ--

Letter no. S.548 d. 26.6.11 from the Deputy Comr. Bangalore Dt. soliciting instructions in the matter of levying additional duty and penalty on a document impounded in 1886 by the District Judge of Bangalore Dist, and again in 1908 by the Additional Munsiff, Bangalore, on the ground of the insufficiency of the duty, and penalty levied on the former occasion.

orer Order

, *the* 19

Date of issue 7 "Nov/11

Signed by W Hirijanna

ORDER THEREON.—No.

SUBJECT.

GPB—10,000 - 19-4-10

Proceedings of the Government of His Highness the Maharaja of Mysore, Financial (Separate Revenue), dated 7th November 1911.

READ—

Letter No. S. 548, dated 26th June 1911, from the Deputy Commissioner, Bangalore District, soliciting instructions in the matter of levying additional duty and penalty on a document impounded in 1886 by the District Judge of Bangalore Division, and again in 1908 by the Additional Munsiff, Bangalore on the ground of the insufficiency of the duty and penalty levied on the former occasion.

No. FL. 1937-45—S. R. 213-10-15, DATED BANGALORE, 7TH NOVEMBER 1911.

ORDER THEREON.—The document referred to, which is written on plain paper, was executed on the 1st May 1884, and produced on the 6th April 1886 as an exhibit in Original Suit No. 44 of 1885 on the file of the District Judge, who held it to be an agreement and admitted it in evidence under Section 34 of the Indian Stamp Act as then in force in Mysore, after levying a duty of annas eight and a penalty of Rs. 5. The same document having been again exhibited in Original Suit No. 143 of 1906-07 on the file of the Additional Munsiff, the latter officer impounded it again as, in his opinion, the document was a deed of partition and the duty levied thereon on the former occasion by the District Judge was deficient. The Deputy Commissioner to whom the document was forwarded by the Munsiff agrees with that officer in regard to the inadequacy of the duty and penalty first levied, but feels a doubt as to the legality of levying duty and penalty a second time, and solicits instructions in the matter.

Government consider that this is not a case in which the Deputy Commissioner should take action now on the reference made by the Munsiff. The document in question was executed in 1884; and duty and penalty were levied on it in 1886 under Section 34 of the Stamp Act as then in force. If the duty and penalty thus levied was less than the amount properly leviable, the Deputy Commissioner might, if he thought fit, have moved the proper Court under Section 50 of the Act for a revision of the proceedings of the District Judge. As no such action was taken at the time, the document should, under Section 39 of the Act, be regarded as duly stamped, and it cannot in any subsequent proceedings in any Court be challenged as inadmissible in evidence. In this view, the action of the Munsiff in impounding the document a second time was contrary to law, and Government consider that no action is therefore called for on the reference made by him to the Deputy Commissioner.

C. S. BALASUNDARAM IYER,
Offg. Secy. to Govt., Gen. & Rev. Depts.

To—The Deputy Commissioner, Bangalore District, returning the enclosures.
The Deputy Commissioners of other Districts.
The Commissioner of Stamps in Mysore.

Exd.—C. V.